

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
GLENN JOHNSON,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICERS JOHN
DOES 1&2, POLICE OFFICER JANE DOE,

Defendants.
----- X

ANSWER

07 CV 10698 (PKC)

Jury Trial Demanded

Defendant City of New York, by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits that plaintiff purports to proceed as stated therein.

2. Denies the allegations set forth in paragraph "2" of the complaint, except admits that plaintiff purports to invoke the jurisdiction of the Court as stated therein.

3. Denies the allegations set forth in paragraph "3" of the complaint, except admits that the New York City Comptroller's Office received what purports to be a Notice of Claim, and that no payment has been made by defendant City of New York.

4. Denies the allegations set forth in paragraph "4" of the complaint, except admits that plaintiff purports to lay venue as set forth therein.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the complaint.

6. Admits the allegations set forth in paragraph "6" of the complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "7" of the complaint.

8. Denies the allegations set forth in paragraph "8" of the complaint.

9. Denies the allegations set forth in paragraph "9" of the complaint

10. Denies the allegations set forth in paragraph "10" of the complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "11" of the complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "12" of the complaint.

13. Denies the allegations set forth in paragraph "13" of the complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "14" of the complaint.

15. Denies the allegations set forth in paragraph "15" of the complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "16" of the complaint.

17. Denies the allegations set forth in paragraph "17" of the complaint.

18. In response to the allegations set forth in paragraph "18" of the complaint, defendant City of New York repeats and realleges the responses set forth in paragraphs "1" through "17", inclusive of this answer, as is fully set forth herein.

19. Denies the allegations set forth in paragraph "19" of the complaint.

20. In response to the allegations set forth in paragraph "20" of the complaint, defendant City of New York repeats and realleges the responses set forth in paragraphs "1" through "19", inclusive of this answer, as is fully set forth herein.

21. Denies the allegations set forth in paragraph "21" of the complaint.

22. Denies the allegations set forth in paragraph "22" of the complaint.

23. Denies the allegations set forth in paragraph "23" of the complaint.

24. In response to the allegations set forth in paragraph "24" of the complaint, defendant City of New York repeats and realleges the responses

set forth in paragraphs "1" through "23", inclusive of this answer, as is fully set forth herein.

25. Denies the allegations set forth in paragraph "25" of the complaint.

26. In response to the allegations set forth in paragraph "26" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "25", inclusive of this answer, as is fully set forth herein.

27. Denies the allegations set forth in paragraph "27" of the complaint.

28. Denies the allegations set forth in paragraph "28" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

29. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

30. Defendant City of New York has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

31. Any injury alleged to have been sustained resulted, in whole or in part, from plaintiff's culpable or negligent conduct and was not the proximate result of any act of defendant City of New York.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

32. There was probable cause for plaintiff's arrest and detention.

AS AND FOR AN FIFTH AFFIRMATIVE DEFENSE:

33. At all times relevant to the acts alleged in the complaint, defendant City of New York 's agents and officials acted reasonably in the proper and lawful exercise of their discretion. Therefore, defendant City of New York is entitled to governmental immunity from liability.

AS AND FOR AN SIXTH AFFIRMATIVE DEFENSE:

34. Plaintiff may have failed to comply with New York General Municipal Law §§ 50(e), 50(h) and 50(i).

AS AND FOR AN SEVENTH AFFIRMATIVE DEFENSE:

35. Punitive damages cannot be recovered against defendant City of New York.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

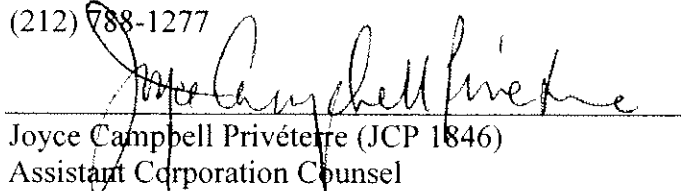
36. Plaintiff may not have satisfied conditions precedent to suit.

WHEREFORE, defendant City of New York respectfully requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
February 25, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant City of New York
100 Church Street, Room 3-148
New York, New York 10007
(212) 788-1277

By:


Joyce Campbell Privé (JCP 1846)
Assistant Corporation Counsel

To: Richard J. Cardinale, Esq.
Cardinale & Marinelli
Attorney for Plaintiff
26 Court Street, Suite 1815
Brooklyn, New York 11242
(718) 624-9391

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Defendants.

ANSWER

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York

Attorney for Defendant City of New York

100 Church Street

New York, N.Y. 10007

Tel: (212) 788-1277.

Due and timely service is hereby admitted.

New York, N.Y., 2008

Joyce Campbell Priv  terre, Esq.

Attorney for City of New York